



1623
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428-03
PATENT
D. D. Stone

ATTORNEY DOCKET NO.: 05015.0366U3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Buchanan et al.

Serial No.: 09/843,037

Filed: April 26, 2001

For: **ACYLATED CYCLODEXTRIN:
GUEST MOLECULE
INCLUSION COMPLEXES**

Group Art Unit: 1623

Examiner: Leigh C. Maier

Confirmation No.: 7210

TECH CENTER 1600/2900

APR 24 2003

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ELECTION UNDER RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NEEDLE & ROSENBERG, P.C.
Customer Number 23859

Sir:

This is in response to the Office Action dated April 2, 2003. The Examiner has restricted the application and has required an election between the following groups: (I) Claims 1-15, drawn to method of making an acylated cyclodextrin inclusion complex, classified in class 514, subclass 58; (II) Claims 16-23 and 84-90, drawn to acylated cyclodextrin inclusion complexes, classified in class 514, subclass 58; (III) Claims 24-45 and 66-82, drawn to a composition comprising polymeric material and an acylated cyclodextrin inclusion complex, classified in classes 525 (nonpharmaceutical guest molecule); 424 (pharmaceutical guest molecule, ingestible product); 623 (pharmaceutical guest molecule, medical device), various subclasses; and (IV) Claims 46-48 and 83, drawn to a method of making a composition comprising polymeric material and comprising an acylated cyclodextrin inclusion complex, classified in class 523, subclass 200+.

Applicants provisionally elect Group II, Claims 16-23 and 84-90, acylated cyclodextrin inclusion complexes, with traverse. Applicants request that the restriction requirement be reconsidered because the Examiner has not shown that a serious burden would be required to examine all the claims. M.P.E.P § 803 provides:

If the search and examination of an application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions. (Emphasis added.)

Thus, for a restriction to be proper, the Examiner must satisfy the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and (2) that the search and examination of the entire application cannot be made without serious burden. See M.P.E.P § 803.

The Examiner has not shown that the second requirement has been met. Specifically, the Examiner has not shown that it would be a serious burden to search and examine all of the groups together. Consequently, reconsideration and modification or withdrawal of the restriction is requested.

Additionally, Applicants select the pharmaceutically active guest molecule species of Group II to begin the search. This selection is with traverse for the reasons discussed herein.

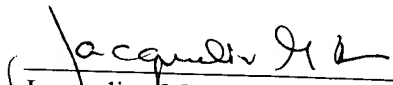
Applicants await an action on the merits.

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The Commissioner is hereby authorized to charge any fees which may be required to
Deposit Account No. 14-0629.

Respectfully submitted,

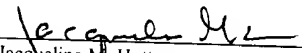
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CERTIFICATE OF MAILING

I hereby certify that this ELECTION UNDER RESTRICTION REQUIREMENT is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.


Jacqueline M. Hutter

3/18/03
Date